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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIAM RATCLIFF,

Defendant and Appellant.

E062737

(Super.Ct.No. FSB07225)

OPINION

APPEAL from the Superior Court of San Bernardino County. Michael A. Smith, Judge. (Retired judge of the San Bernardino Super. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.) Affirmed.

Lynelle K. Hee, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant William Ratcliff appeals after the trial court denied his petition for resentencing under Penal Code section 1170.126, known as the Three Strikes Reform Act of 2012 (Prop. 36, as approved by voters, Gen. Elec. (Nov. 6, 2012)).¹ Defendant filed a notice of appeal on January 22, 2015. We affirm.

PROCEDURAL BACKGROUND²

In 1995, a jury convicted defendant of one count of second degree robbery. (§ 211.) A trial court found that he had suffered two prior serious felony convictions within the meaning of former section 667, subdivision (a)(1), and two prior strike convictions within the meaning of former section 667, subdivisions (b) to (i). The court sentenced defendant to 35 years to life, comprised of 25 years to life for the current crime because of his two strike priors, plus 10 years for the two prior serious felony convictions. Defendant appealed and this court affirmed the conviction, but remanded for resentencing, pursuant to *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497. (*People v. Ratcliff* (Jan. 14, 1998, E017650) [nonpub. opn.].) On July 13, 1998, the trial court denied defendant's *Romero* motion to dismiss one or more of his prior strike convictions and reimposed the 35-year-to-life state prison sentence.

¹ All further statutory references will be to the Penal Code, unless otherwise noted.

² The procedural background is taken, in part, from a prior opinion of this court. (*People v. Ratcliff* (Aug. 3, 1999, E023114) [nonpub. opn.].) At defendant's request, we took judicial notice of our prior opinions on May 27, 2015. (Evid. Code, §§ 452, subd. (d), 459, subd. (a).)

Defendant appealed again, challenging his sentence. This court affirmed the sentence. (*People v. Ratcliff, supra*, E023114.)

On December 1, 2014, defendant filed a petition for writ of habeas corpus, in propria persona, based on the Three Strikes Reform Act of 2012. The trial court deemed the habeas corpus writ petition to be a petition for recall of sentence under section 1170.126. The court denied the petition since defendant's current conviction was for the serious felony of robbery (§ 211), which made him ineligible for resentencing. (§§ 1170.126, subd. (e)(1) & 1192.7, subd. (c)(19).)

Defendant filed a notice of appeal.

ANALYSIS

This court appointed counsel to represent defendant on appeal. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the case and identifying one potential arguable issue: whether the court abused its discretion in determining that defendant was ineligible for resentencing under section 1170.126.

Defendant was offered an opportunity to file a personal supplemental brief, which he has not done.

Under *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

DISPOSITION

The judgment is affirmed.

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HOLLENHORST
J.

We concur:

RAMIREZ
P. J.

CODRINGTON
J.